

Your Ref : CBI/BC/8/99

March 10, 2000

By Fax & Post

Hon James TO Kun-sun
Chairman of the Bills Committee
Legislative Council
Legislative Council Building
Jackson Road
Central Hong Kong

Dear Hon James TO,

Town Planning Bill

Thank you for inviting HIREA to submit our views on the current Town Planning Bill (the Bill) to the Bills Committee.

We, as executives and professionals in the real estate development industry, are pleased to see the Government's intention to provide, through the Bill, a statutory framework to promote the health, safety, convenience and general welfare of the community and the betterment of the environment by means of planning and control of the use and development of land. We welcome certain new measures introduced, such as early involvement of the public by consultations at Planning study stage. We, however, consider that the Bill has, at the same time, created overlappings in control currently put under the Building Ordinance and/or through land lease control. The result could be far reaching, unnecessarily complicating the control mechanism, creating uncertainties and bureaucratic inefficiencies to the real estate development, which as we strongly believe, will not be beneficial to the yet recovering Hong Kong economy.

Without going into details of the individual clauses of the Bill and their legalistic draftings, we would like to summarize our views in four (4) major areas as follow :

- (1) We think Planning control exerted the Planning Authority should be limited to strategic and broad issues like land use, density, general cityscape and the city development as a whole. Details control should still be under the existing control mechanism under the Lands and Building Departments. The current Bill introduces overlapping powers, creating unnecessary bureaucratic procedures, uncertainties, and delays. Building Authority's current processing

system for Building Plans will be jeopardised under new clause 45 in the Bill, and clause 46 even takes away the right of appeal under the Building Bureaucracy, and shifted to the Town Planning Board which is not the right forum to decide on issues imposed by themselves. The original right of further appeal on points of law is also deprived.

- (2) The Bill introduces more public consultations, and is supported. But this should be encouraged in the case of carrying out planning studies, making overall planning policy, determining large scale development strategies, planning the zoning proposals etc. Once these important issues are determined after adequate public consultations, and relevant statutory plans were created, the future developments, if in conformity with these approved parameters, should be allowed to go smoothly without yet introducing another round of public consultation. This is a balance of making policy transparent and maintaining efficiency. The current Bill allows public consultations down to the level of Planning Applications is overdone and may create unnecessary conflicts between different interests groups, wasting public resources, forcing disclosures of commercial secrets which in turn discourage intentions to develop, and ultimately leading to huge delays in future real estate developments;
- (3) The Bill prohibits development to proceed when Draft Plans are under adverse objections, and the mechanism for final decision could last as long as 16 months. A freezing of all developments within an area covered by Zoning Plans under adverse objection may happen during the “interim development control” period. Cases like the previous example of 1993 down zoning over the entire Kowloon, and the possible future introduction of height control along Victoria Harbour may suffocate all developments over a vast region of the Metro Area for a long period of time under the new system. The whole economy of Hong Kong can be put under tragedy if this situation arise.
- (4) The Town Planning Board should be seen and functioned as an independent body. To this end, the Chairman, and the Deputy Chairman should be non-official members. Similar arrangement should also be applied to the Town Planning Appeal Board. There should be provisions in the Bill to this effect. The appointment of the respective members should also be made more transparent, with representations from related professions and industries. The Town Planning Board is one of the most powerful mechanism in approving or disapproving developments worthing billions of dollars every year. The chairman should not be the same person who makes Planning policies. In exercising his administrative power when directing the meeting, the chairman should have no vote save for a casting vote when even voting arises.

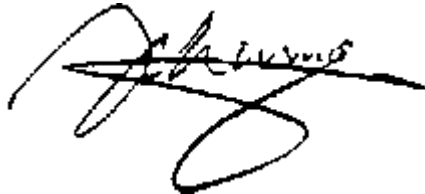
The above are only the most critical aspects of the Bill, and there are a few areas in the Bill which we are having reservations. As we are running out of time to submit before March 11, 2000, we hope we will be given the opportunities to further submit our details at a later stage or present to you in your meeting on March 28.

For any further information, kindly do not hesitate to contact the undersigned (2823 7007) or Mr. John Hui (2576 0576).

With best regards,

Yours truly,

For and on behalf of
Hong Kong Institute of Real Estate Administration

A handwritten signature in black ink, appearing to read 'Danny Cheung', with a large, stylized flourish at the end.

Danny CHEUNG
President

c.c. Secretary for Planning and Lands - Mr. Gordon SIU

DC/JH/TW